



## **BOARD OF SUPERVISORS COUNTY OF LOS ANGELES**

383 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

### **MEMBERS OF THE BOARD**

GLORIA MOLINA  
YVONNE BRATHWAITE BURKE  
ZEV YAROSLAVSKY  
DON KNABE  
MICHAEL D. ANTONOVICH

VIOLET VARONA-LUKENS, EXECUTIVE OFFICER  
(213) 974-1411

June 24, 2003

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

### **ASSESSMENT APPEALS BOARD RULES (All Districts) (3 Votes)**

#### **IT IS RECOMMENDED THAT YOUR BOARD**

Adopt the amended Rules of the Assessment Appeals Boards of the County of Los Angeles to conform the rules to current law, state regulations and local policies and procedures, effective July 2, 2003.

#### **PURPOSE OF THE RECOMMENDED ACTION**

The Rules of the Assessment Appeals Boards of Los Angeles County are amended periodically to reflect current State law, State regulations, and locally established policies and procedures. The rules were last amended on July 16, 2002 for this purpose.

#### **JUSTIFICATION**

Under authority granted by Article XVI of the California Constitution, your Board has delegated the function of equalizing the value of all property on the county's assessment roll to the Assessment Appeals Boards. Assessment Appeals Board hearings are conducted in accordance with the Revenue and Taxation Code, State Board of Equalization Rules (California Code of Regulations) and with local rules adopted by your Board.

The State Board of Equalization (SBE) has recently revised their rules and, therefore, the recommended revisions are to conform to the State's rules. Additionally, the rules are being revised to clarify language to reflect existing operational procedures and policies for the benefit of taxpayers.

Upon approval of the revised rules by the Board, rules booklets will be printed. A rules booklet is sent to each taxpayer at the time they are notified of their initial hearing, and is also made available at the public counter.

### **FINANCING**

Not applicable

### **FACTS AND PROVISIONAL REQUIREMENTS**

The proposed rules are consistent with the provisions of the Revenue and Taxation Code and the California Code of Regulations governing local equalization. The complete text of the rules, including the revisions, has been reviewed by County Counsel and by the Office of the Assessor, the only other affected County department.

Key revisions include:

- Revenue and Taxation Code section 1603 was revised to extend the final date for filing an assessment appeal from September 15<sup>th</sup> to November 30<sup>th</sup> for real and personal property located in the county.

We are also recommending other rule revisions to comply with other changes made by the SBE that are considered procedural and minor in nature; to clarify the rules for taxpayers and their representatives; or to more fully describe policies and procedures designed to expedite the processing and hearing of assessment appeals.

Honorable Board of Supervisors  
6/24/2003  
Page 3 of 3

**IMPACT ON CURRENT SERVICES**

The amendments to the rules will provide taxpayers and their representatives with better information with regard to the processing and hearing of the application; including the ability to file an application on real or personal property, if eligible, by an extended deadline of November 30<sup>th</sup>. Also, the revisions will enhance the ability of the Executive Office to efficiently process applications and conduct hearings.

Respectfully submitted,

VIOLET VARONA-LUKENS  
Executive Officer

Attachment (1)

c: Assessor  
Chief Administrative Officer  
County Counsel  
Auditor-Controller

## ASSESSMENT APPEALS BOARD RULES

RULE	TITLE	PAGE
1.	DEFINITIONS.....	2
1.5.	APPLICABILITY OF RULES; GOVERNING LAW .....	3
2.	FUNCTIONS AND JURISDICTION OF THE BOARD.....	3
2.5	FUNCTIONS OF ASSESSMENT HEARING OFFICER.....	5
3.	LOCATION OF LOCAL ROLL FOR INSPECTION.....	5
4.	APPLICATION.....	5
4.5.	BASE YEAR VALUE PRESUMPTION .....	13
5.	APPLICATION INFORMATION TO THE ASSESSOR.....	14
6.	NOTICE OF HEARING .....	14
6.5.	PREHEARING CONFERENCES AND STATUS HEARINGS .....	15
7.	EXCHANGE OF INFORMATION .....	17
8.	REQUEST FOR FINDINGS OF FACT .....	18
9.	HEARING.....	19
9.5.	CHALLENGE OF BOARD MEMBER OR ASSESSMENT HEARING OFFICER.....	20
10.	SELECTION OF BOARD CHAIR .....	21
11.	QUORUM AND VOTE REQUIRED.....	21
12.	HEARINGS RECORDED .....	21
13.	EXHIBITS.....	22
14.	HEARING PROCEDURE .....	22
15.	LEGAL COUNSEL .....	25
16.	EXAMINATION OF APPLICANT BY BOARD .....	25
17.	PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AUTHORIZED AGENT OR REPRESENTATIVE.....	26
18.	PROPERTY IN COMMON OWNERSHIP .....	26
19.	APPEARANCE BY CORPORATION, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY .....	27
20.	APPEARANCE BY A MEMBER OF FAMILY .....	27
21.	BURDEN OF PROOF .....	27
22.	SUBPOENAS .....	27
23.	POSTPONEMENTS AND CONTINUANCES.....	28
24.	DECISION.....	30
25.	NOTICE OF DECISION.....	31
26.	RECONSIDERATION AND REHEARING .....	32

## **1. DEFINITIONS**

The provisions below shall govern the construction of the terms as used in these rules.

- A. "County" is the County of Los Angeles.
- B. "Assessor" is the assessor of the county.
- C. "County legal advisor" is the county counsel.
- D. "Board" is one of the assessment appeals boards of the county.
- E. "Chair" is the chair of the board.
- F. "Clerk" is the clerk of the board.
- G. "Person affected" is an individual or entity with a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the assessment appeals proceedings, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date that is the subject of the application.
- H. "Applicant" is a person affected who has filed an application for changed assessment.
- I. "Party" is the applicant or the assessor. This may include an authorized representative of the applicant or the assessor as provided in these rules.
- J. "Authorized agent" is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding pursuant to these rules.
- K. "Authorized attorney" is one who is directly retained and authorized by the applicant to represent the applicant in an assessment appeals proceeding pursuant to these rules.
- L. "Authorized representative" is a person directly authorized by the applicant to represent that applicant in an assessment appeals proceeding pursuant to these rules. This includes an agent, an attorney, or a relative mentioned in Rule 20.
- M. "Application" is an application for changed assessment form filed by the person affected, or the authorized representative for the person affected.

- N. "Assessment hearing officer" is an individual appointed pursuant to Revenue and Taxation Code section 1636 to conduct hearings on assessments and make recommendations to the board.
- O. "Full cash value" or "full value" is the fair market value of property or such other value as defined in the California Constitution or the Revenue and Taxation Code.
- P. "Base year" is the 1975-76 assessment year, or thereafter any assessment year in which real property or a portion thereof, is purchased, newly constructed or changes ownership.
- Q. "Inflation factor" is the rate determined by the cost of living index (not to exceed 2%) that is added annually at the lien date to real property (beginning the first year after the appropriate base year is established).
- R. "Decline in value" means the current full cash value of real property (as of the lien date) is less than the base year value trended by the inflation factor.
- S. "Equalization" is the determination by the board of the correct full value of the property that is the subject of the hearing.
- T. "Postponement" is the rescheduling of a hearing prior to its commencement.
- U. "Continuance" is the deferral to a future date of a hearing that has already commenced.

## **1.5. APPLICABILITY OF RULES; GOVERNING LAW**

These rules shall apply to the board; the assessment hearing officers, except those provisions that are inconsistent with sections 1636 through 1641.2 of the Revenue and Taxation Code; and any special alternate assessment appeals board panel appointed pursuant to section 1622.6 of the Revenue and Taxation Code. Wherever there is a conflict with any of these rules, California constitutional or statutory law shall govern.

## **2. FUNCTIONS AND JURISDICTION OF THE BOARD**

- A. The functions of the board are:
  - (1) To equalize assessments on the local assessment roll by reducing, sustaining, or increasing individual assessments upon application, or where no application has been filed, increasing individual assessments after notice by the board;

- (2) To determine the full value of the property that is the subject of the hearing;
- (3) To equalize escaped assessments on the local assessment roll, with the exception of escaped assessments made pursuant to section 531.1 of the Revenue and Taxation Code;
- (4) To hear and decide issues with respect to penalties as provided in section 1605.5 of the Revenue and Taxation Code;
- (5) To determine the classification of the property that is the subject of the proceedings, whether or not the determination may result in an exemption from property taxation;
- (6) To determine the allocation of value to the property that is the subject of the proceedings;
- (7) To exercise the powers specified in sections 1605.5 and 1613 of the Revenue and Taxation Code; and
- (8) To accept the report and recommendation of the assessment hearing officer, or reject the recommendation and set the application for hearing before the board.

B. The board does not have the power to:

- (1) Extend the time in which to file an application;
- (2) Grant or deny an exemption or review the denial of a claim for exemption from property taxation, except as provided in subdivision A(5) of this rule;
- (3) Raise or lower the entire assessment roll;
- (4) Change a base year value previously determined by the board;
- (5) Change tax rates;
- (6) Change the final decision on an application made by an assessment appeals board;
- (7) Rehear a final decision on an application made by an assessment appeals board;
- (8) Order a refund of taxes;
- (9) Remove or waive penalties for delinquent payment of taxes; or

- (10) Make quasi-legislative determinations.

## **2.5 FUNCTIONS OF ASSESSMENT HEARING OFFICER**

A. The functions of the assessment hearing officer are:

- (1) To conduct hearings pursuant to section 1637 of the Revenue and Taxation Code;
- (2) To prepare a summary report of the proceedings together with recommendations on the application for changed assessment;
- (3) To transmit a copy of his or her report and recommendation to the applicant and to the assessor at the time of the hearing; and
- (4) To transmit his or her original report and recommendation to the clerk who will present it to the assessment appeals board for review.

B. Request for board hearing: The applicant or applicant's authorized representative shall be informed that the board is not bound by the report and recommendation of the assessment hearing officer and that the applicant or applicant's authorized representative may submit a written request for a new hearing before a full board within fourteen (14) days from the transmission of the report and recommendation. In addition, the assessor may submit a written request within fourteen (14) days of the transmission of the report and recommendation, to ask the board to reject the recommendation and set the matter for a new hearing before a full board.

C. The report and recommendation of an assessment hearing officer that is rejected by the board has no force or effect in any subsequent hearing on that application before a full board.

## **3. LOCATION OF LOCAL ROLL FOR INSPECTION**

The local roll or copy thereof shall be made available for inspection by all interested parties during regular office hours of the assessor. Copies may be made available for inspection at other places for the convenience of the public.

## **4. APPLICATION**

No reduction in an assessment sought by a person affected shall be made unless the application procedures set forth in this rule are followed.



**A. WHO MAY FILE –**

- (1) The application shall be filed by the person affected or the person's authorized agent or attorney, or by a relative mentioned in Rule 20.
- (2) Agent authorization required: If the application is filed by an agent (other than a California licensed attorney who has been directly retained and authorized by the person affected to file the application), the applicant's written authorization to so act must be properly indicated on the application as set forth below.
  - (a) The authorization of the applicant shall be on, or securely attached to, each application filed by the agent. If the authorization is attached to the application, the application shall clearly state as such in the agent authorization portion of the application form.
  - (b) An agent authorization that is attached to an application shall include the following information:
    - (i) The date of execution of the agent authorization;
    - (ii) A statement declaring that the agent named is authorized to sign and file applications in the specific calendar year in which the application is filed;
    - (iii) Identification of the specific parcel(s) or assessment(s) covered by the authorization, or a statement declaring that the agent named is authorized to represent the applicant with regard to all parcels and assessments located in the county;
    - (iv) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;
    - (v) The applicant's signature and title; and
    - (vi) A statement declaring that the agent will provide the applicant with a copy of the application.
  - (c) If a photocopy of the original agent authorization is attached to the application, the agent shall be prepared to submit an original signed authorization upon request by the board.
  - (d) An agent shall have authorization from the applicant to file an application at the time of filing. Retroactive authorizations shall not be permitted.
  - (e) The clerk shall provide, free of charge, forms for agent authorization.
- (3) If the applicant is a corporation, limited partnership, or limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

- (4) The clerk shall not reject an application as a duplicate application unless the provisions of section 1603.5 of the Revenue and Taxation Code apply to the application.

**B. SIGNATURE AND VERIFICATION –**

The application shall be in writing and signed by the applicant, or the applicant's authorized representative, with a declaration under penalty of perjury that the statements made in the application are true and the person signing the application is one of the following:

- (1) The person affected, a relative mentioned in Rule 20, or an officer of a business entity or authorized employee of a business entity who has been designated in writing by the board of directors or officer to represent the business entity;
- (2) An authorized agent who is directly authorized by the applicant as indicated in the agent authorization portion of the application; or
- (3) An authorized attorney licensed to practice in the State of California who has been directly retained by the applicant and who has been directly authorized by the applicant, prior to the time the application is filed, to file the subject application.

**C. FORMS AND CONTENT –**

The county shall provide, free of charge, forms on which applications are to be made. The application forms shall be in a form prescribed by the State Board of Equalization.

- (1) The application form shall show the following:
  - (a) The name and address of the applicant;
  - (b) The name and address of the applicant's authorized agent or attorney, if any. If the applicant is represented by an agent or attorney, both the applicant's actual mailing address and the agent's or attorney's mailing address shall be provided on the application;
  - (c) The applicant's written authorization for an agent, if any, to act on the applicant's behalf as provided in subdivision A of this rule;
  - (d) A description of the property that is the subject of the application sufficient to identify it on the assessment roll (e.g., the parcel number for secured property, a copy of the tax bill for unsecured property);

- (e) The applicant's reasonable opinion of the full cash value of the property on the valuation date of the assessment year at issue;
  - (f) The roll value on which the assessment of the property was based; and
  - (g) The facts relied upon in support of the applicant's claim that the board should order a change in the assessed value, base year value, or classification of the property, or other claims provided in the application form. The amount of tax, the amount of a tax increase, or the amount of an assessed value increase shall not constitute facts sufficient to warrant a reduction in assessed values.
- (2) Review by clerk: The clerk shall review the application to determine whether it is complete and correct. An application that contains complete and correct information required by subdivision C(1) of this rule is valid and the applicant or applicant's authorized representative shall not be required to provide any additional information on the application form. If an application does not provide complete and correct information required by subdivision C(1) of this rule, the application is invalid and shall not be accepted by the clerk.
- (a) If the application is invalid, the clerk shall give prompt notice to the applicant, and where applicable, the applicant's authorized representative, of the following:
    - (i) The application is incorrect and/or incomplete and therefore not accepted for filing;
    - (ii) The errors or omissions in the application to be corrected by the applicant or applicant's authorized representative;
    - (iii) The time period by which the applicant or applicant's authorized representative must provide corrections to the errors or omissions;
    - (iv) A warning that if the applicant or applicant's authorized representative fails to respond to the notice within the time period provided in the notice, the application will be denied and the appeal will be closed.
  - (b) If the applicant or applicant's authorized representative has submitted a timely response to the notice given pursuant to subdivision C(2)(a), above, the clerk shall:
    - (i) Determine whether the application with the corrections provided by the applicant or applicant's authorized representative, is correct and complete.

- (ii) Provide notice to the applicant or the applicant's authorized representative whether the application, as corrected, is valid and will be accepted for filing.
  - (c) If the applicant or applicant's authorized representative has failed to correct the errors or omissions as requested by the clerk, or has failed to respond within the time provided by the clerk, the clerk shall provide notice to the applicant or applicant's authorized representative of the following:
    - (i) The application is incorrect and/or incomplete, and is therefore denied as invalid.
    - (ii) The reason(s) why the application is incorrect and/or incomplete.
    - (iii) The applicant or applicant's authorized representative may submit a written request to the clerk to set a hearing before the board to determine whether the application is valid pursuant to subdivision C(1) of this rule.
    - (iv) The time period in which to request a hearing before the board on the validity of the application.
    - (v) A warning that failure to request a hearing within the time provided shall result in a final determination that the application is denied as invalid and therefore the appeal is closed.
  - (d) As a condition to declaring an application valid under this rule, the board may require the applicant or applicant's authorized representative to execute a written agreement to extend the two-year period provided in section 1604 of the Revenue and Taxation Code.
- (3) The application form shall also include the following:
- (a) A notice that a list of property transfers within the county that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee not to exceed ten dollars (\$10).
  - (b) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid prior to the conclusion of the hearing.
  - (c) If the county has appointed assessment hearing officers as provided in Revenue and Taxation Code section 1636, a notice advising the applicant of the circumstances under which the applicant may request that the application be heard by a hearing officer.

- (4) The application may include one or more reasons for filing the application. In addition, the application may include both property on the secured roll and property on the unsecured roll, so long as the properties are located at the same situs address, or are included in the same economic unit.

**D. TIME FOR FILING**

- (1) Regular assessment period: The filing period for an application to change an assessment made in the regular assessment period is July 2 through November 30 at 5:00 p.m. for all real and personal property located in the county. The regular assessment period is from January 1 to and including July 1, or to such later date for completion of the roll as may be authorized by the State Board of Equalization.
- (2) Outside the regular assessment period: The filing period for an application to change an escaped assessment, a supplemental assessment, or other assessment made outside the regular assessment period, expires sixty (60) days after the date of mailing printed on the supplemental notice or the tax bill for that assessment, or the postmark date of the notice or tax bill, whichever is later.
- (3) Late notice of assessment: If the notice of assessment is not received at least fifteen (15) calendar days prior to the deadline to file the application, an application may be filed within sixty (60) days of receipt of the notice of assessment or the mailing of the tax bill, whichever is earlier. The applicant must also include an affidavit declaring under penalty of perjury that the notice was not timely received.
- (4) Stipulation of error in value judgment: An application may be filed within twelve (12) months following the month in which the assessee is notified of the assessment, if the party affected, or his or her authorized representative, and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with section 1607 of the Revenue and Taxation Code.
- (5) Misfortune and calamity: An application to change a proposed reassessment made for property damage by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code shall be filed with the clerk no later than six (6) months after the date of mailing of the notice of proposed reassessment by the assessor. The board's decision regarding the damaged value of the property shall be final; however, the decision regarding such reassessment shall create no presumption regarding the value of the property subsequent to the date of the damage.

(6) Timely filing:

- (a) An application is timely filed if personally delivered to the clerk at 500 West Temple Street, Room B-50, Los Angeles, California 90012, on or before 5 p.m. of the last day to file the application.
- (b) If filed by mail, an application will be deemed timely filed if either:
  - (i) The application is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on or before the last day of the applicable filing period; or
  - (ii) The applicant or applicant's authorized representative provides the clerk or the board with satisfactory proof showing that the application was mailed on or before the last day of the applicable filing period. The applicant or applicant's authorized representative shall submit a statement or affidavit attesting to such timely filing within one (1) year of the deadline applicable to the original filing period.

(7) Postmark: An application filed by mail that bears both a private business meter postage postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the same date as the U.S. Postal Service postmark date. If the last day of the filing period falls on a Saturday, Sunday, or legal holiday, an application that is mailed and postmarked on the next business day will be deemed timely filed. If the county's offices are closed for business prior to 5:00 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(8) The board has no jurisdiction to hear an application unless filed within the applicable time period.

E. **FACSIMILE OR OTHER ELECTRONIC FILING PROHIBITED** – Applications transmitted by facsimile or other electronic means shall not be accepted for filing. The clerk shall reject all such filings and provide notice of such rejection to the applicant or the applicant's authorized representative within a reasonable period of time. Rejection by the clerk of an application submitted for filing by facsimile or other electronic means shall not constitute an excuse for failure to timely file an application.

F. **AMENDMENTS AND CORRECTIONS** –

- (1) An applicant or applicant's authorized representative may amend an application until 5:00 p.m. on the last day of the applicable filing period.
- (2) After expiration of the applicable filing period:

- (a) An invalid application may be corrected pursuant to subdivision C(2) of this rule.
  - (b) The applicant or applicant's authorized representative may amend the application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.
  - (c) The applicant or applicant's authorized representative may request the board for permission to amend the application to state additional facts claimed to require a change in the assessment that is the subject of the application.
    - (i) The request shall be in writing and filed with the clerk prior to a scheduled hearing, or may be made orally at the hearing. The clerk shall provide to the assessor a copy of any written request received prior to the hearing.
    - (ii) The board may in its discretion grant or deny permission to amend an application. As a condition to granting such request, the board may require the applicant or applicant's authorized representative to sign a written agreement to extend the two-year period provided in section 1604 of the Revenue and Taxation Code.
    - (iii) If the board permits amendment, the assessor may request a continuance of the hearing. Upon the assessor's request, the board shall grant a continuance of the hearing for at least forty-five (45) days, unless the parties mutually agree to a different period of time.
- (3) Unless otherwise permitted by the board, any amendment or correction pursuant to F(1) and F(2) above shall be presented in the following form:
- (a) Any amendment or correction shall be clearly identified on a copy of the original application; or
  - (b) If unable to identify the amendment(s) or correction(s) on a copy of the application, the applicant or applicant's authorized representative shall attach a written description of the amendment(s) or correction(s) to a copy of the application. The written attachment should indicate each amendment or correction to the application, the application number, or if no application number is available, the applicant's name (as shown on the original application), the parcel number(s) or tax bill number(s) of the subject property, and the tax year for which the application was filed.

- (4) The applicant or applicant's authorized representative may present testimony and other evidence at the hearing to support an opinion of the full value of the property that is different from that stated on the application.

G. **CONSOLIDATION OF APPLICATIONS** – On its own motion or upon timely request of an applicant or applicant's authorized representative, or the assessor, the board may consolidate applications for hearing. Consolidation is appropriate when there are pending applications which present the same or substantially related issues of valuation, law, or fact. A requesting party shall advise the board of the applications that are proposed to be consolidated for hearing. If the board orders the consolidation of applications for hearing, the board shall notify all parties of the action.

#### 4.5. **BASE YEAR VALUE PRESUMPTION**

- A. The full value determined for real property that is purchased, newly constructed, or changed ownership after the 1975 lien date, shall be conclusively presumed to be the base year value, unless an application for equalization is filed:
- (1) Within the time period specified in section 1605 of the Revenue and Taxation Code following a determination of new construction or change in ownership;
  - (2) During the regular equalization period provided for in section 1603 of the Revenue and Taxation Code for the year in which the assessment is placed on the roll, or during the regular equalization period in any of the three succeeding years;
  - (3) At any time after the time period specified in A(1) or A(2) above if the applicant claims that an erroneous change in ownership determination has occurred.
- B. Upon filing of an application, the board's determination of the base year value shall be conclusively presumed to be the base year value, and shall apply for the assessment event for which the application is filed and prospectively thereafter.
- C. A base year value determined pursuant to section 51.5 of the Revenue and Taxation Code shall be conclusively presumed to be the base year value unless an application is filed during the regular equalization period in the year in which the error was corrected, or during the regular equalization period in any of the three succeeding years. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for that assessment event.



- D. The board's decision that the current full cash value, as defined in section 110 of the Revenue and Taxation Code, is lower than the adjusted base year value (the base year value adjusted by the inflation factor), shall not establish a new base year value unless that value is the subject of the appeal.

## **5. APPLICATION INFORMATION TO THE ASSESSOR**

The clerk shall transmit to the assessor a copy of each application for changed assessment and each written request for amendment or correction that is received prior to a hearing. A reasonable time shall be allowed before the hearing for the assessor to obtain information relative to the property and the assessment thereof.

## **6. NOTICE OF HEARING**

- A. After the filing of an application, the clerk shall set the matter for hearing and notify the applicant and/or applicant's authorized representative in writing either by personal delivery or by depositing the notice in the United States Mail directed to the address given in the application. If requested by the assessor, or the applicant and/or applicant's authorized representative, the clerk may electronically transmit the notice to the requesting party.
  - (1) The notice shall designate the time, date, and place of the hearing. It shall also include a statement that the board is required to find the full value of the property from the evidence presented at the hearing and that under certain circumstances, the board may raise as well as lower or confirm the assessment being appealed.
  - (2) The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvement only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment) may result in an increase in the unprotested assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.
  - (3) The notice shall be given no less than forty-five (45) days prior to the hearing unless a shorter notice is stipulated to by the assessor and the applicant and/or applicant's authorized representative. If the hearing is vacated for any reason, ten (10) days' notice may be given for the rescheduled hearing.
- B. The clerk shall notify the assessor of the time, date, and place of the hearing.

- C. Increase on board's motion: When proposing to change an assessment on its own motion without an application pending before it, the board shall give notice of the time, date, and place of the hearing in the manner provided herein. The notice shall be provided not less than twenty (20) days prior to the hearing unless notice is waived by the applicant or applicant's authorized representative in writing in advance of the hearing or orally at the time of the hearing or a shorter period is stipulated to by the assessor and the applicant or applicant's authorized representative. The notice shall contain the following:
- (1) A statement that the board will hold a hearing to determine whether or not the assessment shall be raised;
  - (2) The time, date, and place of the hearing;
  - (3) The assessor's parcel number or numbers of the property as shown on the local roll, or the tax bill number relating to the assessment;
  - (4) A statement that the board is required to find the full value of the property from the evidence presented at the hearing; and
  - (5) The proposed increase in the assessment.

## **6.5. PREHEARING CONFERENCES AND STATUS HEARINGS**

- A. **PREHEARING CONFERENCES** – Prior to the hearing on the application, the board may order a prehearing conference. A prehearing conference is optional and will be ordered only when the board deems it necessary to facilitate orderly proceedings. A prehearing conference may be held on the board's own motion or at the request of the applicant or applicant's authorized representative, or the assessor.
- (1) A party may request a prehearing conference by submitting to the clerk a letter identifying the application and the reason(s) for a prehearing conference. The party shall serve the letter by mail or in person on all parties to the proceeding.
  - (2) If the board orders a prehearing conference, the clerk will provide all parties no less than thirty (30) days, written notice of the time, date, and place of the prehearing conference. The parties may mutually agree in writing to a shorter notice period.
  - (3) A full board, or upon stipulation of the parties, a two (2) member board, shall preside over the prehearing conference.

- (4) All parties, in person or represented by an authorized representative, are required to attend the prehearing conference.
- (5) At the request of either party, or on the board's own motion, the board may cancel the prehearing conference.
- (6) At the prehearing conference, the parties shall be prepared to discuss the scheduling of the hearing on the application and the time estimate for such hearing. In addition, the parties may apprise the board of other issues such as:
  - (a) Exchange of information pursuant to Revenue and Taxation Code section 1606;
  - (b) Request for information pursuant to Revenue and Taxation Code sections 408 and 441;
  - (c) Subpoenas pursuant to Revenue and Taxation Code sections 1609.4 and 1609.5;
  - (d) Consolidation of applications for hearing; and
  - (e) Bifurcation of issues.
- (7) At the prehearing conference, the board shall attempt to resolve issues properly before it. The board may in its discretion defer resolution of any issue until the hearing on the application.
- (8) The prehearing conference shall be electronically recorded. Written findings of fact shall not be prepared in connection with the prehearing conference. All actions taken by the board and any agreements between the parties are to be described and reflected on the record.
- (9) All parties shall act in full accordance with these rules, agreements reached, and resolutions made at the prehearing conference.

B. **STATUS HEARINGS** – At the request of any party, or on its own motion, the board may schedule a hearing on the status of an application. A status hearing may be held whenever the board deems it necessary for the orderly conduct of its proceedings.

- (1) A status hearing may be held before, during, or after a hearing on an application. The purpose of such hearing is to assist the board and/or the parties in the hearing and decisionmaking process.

- (2) A status hearing shall be conducted pursuant to the applicable provisions of subdivision A of this rule.

## 7. EXCHANGE OF INFORMATION

A. By applicant: An applicant or applicant's authorized representative may make a written request for an exchange of information with the assessor (1) at the time the application is filed, in which case the request must be submitted with the application to the clerk, or (2) any time prior to thirty (30) days before commencement of the hearing on the application, in which case the request must be submitted to the assessor at 500 W. Temple St., Room 291, Los Angeles, CA 90012, with a copy of said request provided separately to the clerk. The clerk shall, at the earliest opportunity, forward any request filed with an application, or a copy thereof, to the assessor. The request shall contain the basis of the requesting party's opinion of value and the following data:

- (1) **COMPARABLE SALES DATA** – If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the Assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented: A description of the property, including the age and area of the improvement, and the land area; the approximate date of the sale which may be any time before the date of valuation but may not exceed 90 days after the valuation date; the price paid; the term of sale, if known; and the zoning of the property.
- (2) **INCOME DATA** – If the opinion of value is to be supported with evidence based on an income study, there shall be presented; the gross income, the expenses, and the capitalization method, and rate or rates employed.
- (3) **COST DATA** – If the opinion of value is to be supported with evidence of replacement or reproduction cost, there shall be presented:
  - (a) With regard to improvements to real property; the date of construction, type of construction, and replacement or reproduction cost of construction.
  - (b) With regard to machinery and equipment; the date of installation, installed cost, and any history of extraordinary use.
  - (c) With regard to land, improvements, and machinery and equipment; facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

- B. By assessor: Where the assessed value of the property involved (prior to deduction of any exemption accorded the property) exceeds one hundred thousand dollars (\$100,000), the assessor may also make a written request for an exchange of information with the applicant or applicant's authorized representative pursuant to the provisions of subdivision A of this rule. The assessor shall file the request with the clerk and forward a copy thereof to the other party to the proceeding.
- C. Response: If the requesting party has submitted the request as specified in subdivision A of this rule, the other party shall mail to the requesting party its written response at least fifteen (15) days prior to the hearing. The written response shall set forth the basis of the opinion of value and shall contain the same type of data as provided in subdivision A of this rule in support of that opinion.
- D. Required information: The information exchanged shall provide reasonable notice to the other party of the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged between the parties.
- E. New material: Whenever information has been exchanged pursuant to this rule, the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.
- F. Failure to comply: If a party does not comply with a request for information within the time specified in subdivision C of this rule, the board may grant a postponement of the hearing for a reasonable period of time. The postponement shall extend the time for responding to the request. However, if the board finds that the noncompliance was willful, the hearing will proceed as scheduled and the noncomplying party may comment on the evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party so consents.

## **8. REQUEST FOR FINDINGS OF FACT**

- A. The application form shall contain a notice to the applicant that upon written request, the board will prepare written findings of fact at the expense of the requester, and that if not so requested prior to the commencement of the hearing, the right to such written findings is waived.
- B. An applicant or applicant's authorized representative, or the assessor may request the board to prepare written findings of fact by submitting a written request with the clerk prior to the commencement of the hearing and pay the required fee to the clerk before the conclusion of the hearing. The requesting party may abandon the

request and waive written findings at the conclusion of the hearing. If the request is abandoned, the other party may orally or in writing renew the request at the conclusion of the hearing along with payment of the required fee.

- C. The board may deny any request to waive written findings of fact that is made after the conclusion of the hearing.
- D. The board need not prepare written findings if, at the conclusion of the hearing, the requesting party fails to pay the required fee.
- E. The fee for written findings of fact is set by ordinance of the Board of Supervisors. The fee shall be imposed upon the party making the initial request or the party renewing the request after abandonment by the original requesting party. The fee for contiguous parcels or assessments involving the same issues, testimony, and owners shall not exceed the single parcel fee set by the Board of Supervisors.
- F. Written findings of fact must fairly disclose the board's findings on all material points raised in the application and at the hearing. The written findings shall also include a statement of the methods of valuation used in determining the full value of the property.
- G. If requested pursuant to this rule, the board shall issue written findings of fact to the parties within forty-five (45) days after final determination of the board is entered into the record pursuant to Rule 25, with a notice that a request for a transcript of the hearing must be made within sixty (60) days after the final determination by the board.

## **9. HEARING**

- A. On the fourth Monday in September of each year, the board shall meet to equalize assessments on the local tax assessment roll, and shall continue in session for that purpose from time to time until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in these rules.
- B. Subject to exceptions provided by law, the board shall hear and decide an application within two years of the date of filing as provided in section 1604 of the Revenue and Taxation Code. The clerk shall give written notice to the applicant or applicant's authorized representative whenever the application shall not be heard and decided within said two-year period, and the reasons therefor. The written notice shall also advise the applicant and/or applicant's authorized representative that he or she is entitled to request a hearing before the board to protest such determination. If a request for hearing is made, the clerk shall schedule the hearing and notify the applicant and/or applicant's authorized representative, and the assessor of the time, date and place of the hearing. This subdivision B shall not

apply to an application for which the applicant and/or applicant's authorized representative has consented to the extension of the two-year period.

#### **9.5. CHALLENGE OF BOARD MEMBER OR ASSESSMENT HEARING OFFICER**

- A. An applicant or applicant's authorized representative, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or an assessment hearing officer.
- (1) Service: The objecting party shall serve copies of the statement on each party in the proceeding and on the board member or assessment hearing officer alleged in the statement to be disqualified.
  - (2) Contents: The statement shall set forth the facts constituting the ground of the disqualification of the board member or assessment hearing officer.
  - (3) Time to file: The statement shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground(s) of the board member's or assessment hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before the challenged board member or assessment hearing officer.
  - (4) Separate challenges: If objections are made to more than one (1) board member, the objecting party shall file a separate statement for each board member.
  - (5) The clerk shall reject any written statement that does not conform with this rule.
- B. Consent or Answer: Within ten (10) days after the filing of the statement, or within ten (10) days after the service of the statement as provided in subdivision A of this rule, whichever is later, the board member or assessment hearing officer alleged therein to be disqualified may file with the clerk his or her consent in writing that the action or proceeding be tried before another board member or assessment hearing officer, or may file with the clerk his or her written answer admitting or denying any or all of the allegations contained in the statement and setting forth any additional fact or facts material or relevant to the question of his or her disqualification. The clerk shall transmit a copy of the board member's or assessment hearing officer's consent or answer to each party to the proceeding.
- C. Verification required: Every statement and answer filed pursuant to this rule shall be verified by oath in the manner prescribed in section 446 of the Code of Civil Procedure.

- D. Assignment to member: The question of the board member's or assessment hearing officer's disqualification shall be heard and determined by a board member other than the member subject to challenge agreed upon by the parties in the proceeding or, in the event of their failing to agree, by a board member assigned to act by the clerk. Within five (5) days after the expiration of the time allowed herein in subdivision B above for the board member or assessment hearing officer to answer, the clerk shall assign a board member, not disqualified, to hear and determine the question of disqualification.
- E. Where an objection is made to an assessment hearing officer under this rule, the clerk may schedule the application to be heard by the board in lieu of following the above procedure.

## **10. SELECTION OF BOARD CHAIR**

The board shall select one of its members to act as chair and preside over all hearings. This function may be rotated among board members. The chair shall exercise such control over the hearings as is reasonable and necessary. The chair shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

## **11. QUORUM AND VOTE REQUIRED**

- A. The board shall not conduct a hearing unless a quorum is present. Except as provided in Rule 10, the board shall make all determinations or orders by a majority vote of all members. If a hearing takes place before a board consisting of two (2) members and they are unable to reach a majority decision, the application shall be reheard before the full board, or the parties may stipulate that the absent member may read or otherwise familiarize himself or herself with the record and participate in the vote of the decision.
- B. Any party may demand a hearing before the full board. The board may deny such demand only if a full board is not available, the matter cannot be heard and decided by a full board prior to 120 days of the expiration of the two-year period provided in section 1604 of the Revenue and Taxation Code, and the applicant or applicant's authorized representative declines to execute a written agreement to extend the two-year period.

## **12. HEARINGS RECORDED**

- A. All hearings of the board shall be recorded or reported.



- B. The applicant or applicant's authorized representative, at his or her own expense, may have the hearing reported by a stenographic reporter.
- C. If a stenographic reporter is present, any party may request that the board designate the reporter's transcript as the official record of the hearing. If the board grants the request, the reporter's transcript shall be deemed the official record of the hearing upon the filing of a copy of the transcript with the board. With the exception of transcripts of hearings, or portions thereof, that are closed to the public pursuant to Rule 14(A), all copies of transcripts submitted to the board may be obtained by any person pursuant to subdivision (D) of this rule.
- D. Upon payment of a reasonable fee, any person may purchase a copy of the recorded or reported portion of a hearing that is open to the public so long as that request is made within sixty (60) days after the final determination of the board.

### **13. EXHIBITS**

Unless otherwise ordered by the board, exhibits, maps, letters, papers, documents, charts, etc., submitted by any person, shall not be delivered to the members of the board prior to being marked for identification or received into evidence at the hearing with the exception of those presented at a prehearing conference or status hearing conducted pursuant to Rule 6.5.

### **14. HEARING PROCEDURE**

Hearings on applications shall proceed as follows:

- A. Open hearings: The hearings shall be open and public except that, upon conclusion of the taking of evidence, the board may deliberate in private in reaching a decision. An applicant or applicant's authorized representative, or the assessor may request the board to close to the public a portion of the hearing by filing a declaration under penalty of perjury that the applicant or applicant's authorized representative, or the assessor will present evidence relating to trade secrets the disclosure of which will be detrimental to the business interests of the owner of the trade secrets. The declaration shall also state the estimated time that it will take to present the evidence. If the board grants the request, only evidence relating to the trade secrets may be presented during the time the hearing is closed. Such evidence shall remain confidential unless otherwise agreed to by the party to whom it relates or ordered to be disclosed by a court of competent jurisdiction.
- B. Appearance required: The clerk shall announce the name of the applicant. The chair shall determine if the applicant or applicant's authorized representative is present. If neither is present, the chair shall ascertain whether the notice required

by Rule 6 was given to the applicant or applicant's authorized representative. If the notice has been given and neither the applicant nor applicant's authorized representative is present and no request for postponement of the hearing has been received, the application shall be denied for lack of appearance, except for those matters before the board pursuant to Rule 16A. If the notice has not been given, the hearing shall be postponed to a later date and the clerk shall be directed to give proper notice thereof to the applicant or applicant's authorized representative.

- C. Preliminary matters: If all parties are present, the clerk shall announce the nature of the application and verify the values. The chair may request either or both parties to briefly describe the property, the issues before the board, and any agreements or stipulations agreed to by the parties.
- D. Assessor's recommendations: The chair shall ascertain the assessor's recommendations, if any, with regard to the application. If the assessor has any recommendations, the chair may ask the applicant or applicant's authorized representative if the recommendations are accepted. If the recommendations are accepted, the board shall determine whether or not to approve the recommendations. If the recommendations are not approved by the board, the chair shall require the parties to proceed with the hearing.
- E. Order of presentation: The chair shall require the applicant or applicant's authorized representative to present his or her case to the board first. If the applicant or applicant's authorized representative fails to present sufficient evidence to support his or her claim(s), the assessor may request that the board deny the application without the presentation of evidence by the assessor. The board shall not require the applicant or applicant's authorized representative to present evidence first if the hearing involves:
  - (1) The assessment of an owner-occupied single-family residence, and the taxpayer or assessee has supplied the assessor with all information required by law;
  - (2) Escape assessments where a taxpayer or assessee has filed a change in ownership statement or business property statement, obtained a permit for new construction, or supplied the assessor with all other information required by law;
  - (3) The penalty portion of the assessment;
  - (4) Change in ownership where the assessor is challenging the transfer price, and the taxpayer or assessee has supplied the assessor with all information required by law.
- F. Conduct of hearing:

- (1) All testimony shall be taken under oath or affirmation.
  - (2) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection.
  - (3) A full and fair hearing shall be accorded the parties. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses and for argument.
  - (4) The party bearing the burden of proof shall have the right to open and close the argument.
- G. The board may act only upon the basis of evidence properly admitted into the record.
- H. Assessor's request for increase: If the assessor requests that the board increase the assessed value and proposes to introduce evidence to support a higher assessed value than that placed on the roll, the assessor shall, at least ten (10) days prior to the hearing, give notice in writing to the applicant or the applicant's authorized representative of the higher assessed value and the evidence proposed to be introduced. The assessor may thereafter introduce such evidence at the hearing and shall present his or her case first unless the applicant has failed to supply all information provided by law to the assessor. The notice may be given to the applicant or the applicant's authorized representative by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. The assessor shall send a copy of this notice to the clerk.
- I. Withdrawal of application: Upon written request signed the applicant or applicant's authorized representative , an application may be withdrawn at any time prior to or at the time of the hearing. However, if the assessor has given written notice pursuant to subdivision H of this rule, and a copy of such notice has been filed by the assessor with the clerk. Thereafter, a withdrawal of the application may only be effected upon written stipulation by the applicant or applicant's authorized representative, and the assessor.
- J. Nonappearance after request for increase: In the event of a failure to appear by the applicant or the applicant's authorized representative when the assessor has given notice pursuant to subdivision H of this rule, and a copy of such notice has been filed by the assessor with the clerk, the board shall set for hearing the request of the assessor for an increase to the assessed value. The applicant and the applicant's authorized representative shall be notified of the subsequent hearing in accordance with rule 6 subdivision C. If the applicant or the applicant's authorized

representative fails to appear at that hearing, the board may act on the basis of the assessor's evidence properly presented and admitted to the record.

- K. Disruption of proceeding: Any person causing an unreasonable disruption in the hearing may be excluded from the hearing room. Wherever possible, the chair shall provide that person with a reasonable opportunity to remedy the problem(s) causing the disruption. Failure to comply with a reasonable request of the chair to remedy any such problem may result in exclusion of that person from the hearing room for the duration of the proceedings.

## **15. LEGAL COUNSEL**

Any party may be represented by legal counsel.

## **16. EXAMINATION OF APPLICANT BY BOARD**

Subject to the exceptions set forth below, no reduction of an assessment shall be made unless the board examines, on oath, the applicant or applicant's authorized representative touching the value of the property, and the applicant or applicant's authorized representative attends (as provided in rules 17 through 20) and answers all questions pertinent to the inquiry.

- A. Stipulation: If the board receives a written stipulation to the full value and assessed value of the property that sets forth the facts upon which the reduction in value is premised, signed by the assessor and the county legal advisor on behalf of the county, and by the applicant or applicant's authorized representative filing the application, the board may, at a public hearing:

- (1) Accept the stipulation, and waive the appearance of the applicant or applicant's authorized representative, and change the assessed value pursuant to section 1610.8 of the Revenue and Taxation Code, or
- (2) Reject the stipulation and set or reset the application for hearing.

- B. Waiver of appearance: The board may in its discretion, waive the examination of the applicant or applicant's authorized representative if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or applicant's authorized representative request such waiver in the application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision within thirty (30) days before commencement of the hearing on the application. If the

board waives the examination of the applicant and/or applicant's authorized representative, it shall decide the case on the merits of the application.

**17. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AUTHORIZED AGENT OR REPRESENTATIVE**

- A. Except as otherwise provided in these rules, the applicant must appear personally at the hearing or be represented by an authorized representative (such as an agent or attorney), a corporate officer or employee, a co-owner, or a family member mentioned in Rule 20, who shall be thoroughly familiar with the facts pertaining to the matter before the board.
- B. Authorization to appear: If the application was filed by the applicant, any person (other than an agent authorized to file the application pursuant to these rules, a person mentioned in Rule 19 except an agent, a co-owner, or a family member mentioned in Rule 20) who appears at the hearing shall first file with the clerk the applicant's written authorization for such person to represent the applicant at the hearing. If such person is a California licensed attorney who did not file the application on behalf of the applicant, he or she shall testify under oath and provide written documentation to the board establishing that the applicant has directly retained and authorized the attorney and/or his or her law firm to represent the applicant at the hearing.
- C. The applicant may have a representative appear with him or her and participate at the hearing.
- D. Change in representation: If the applicant is represented at the hearing by a person other than the person originally authorized by the applicant to file the application and/or appear at the hearing, the person appearing on behalf of the applicant shall present to the board a written authorization signed by the applicant that indicates the applicant's consent to the change in representation. The clerk shall provide forms for this purpose free of charge. The authorization form shall be in the form prescribed in Rule 4.
- E. Failure to establish proper authorization to appear on behalf of an applicant shall result in the denial of an application for nonappearance as provided in subdivision B of Rule 14.

**18. PROPERTY IN COMMON OWNERSHIP**

If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

**19. APPEARANCE BY CORPORATION, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY**

A corporation, limited partnership or limited liability company shall make an appearance by the presence of an authorized attorney, duly authorized officer, employee, or authorized agent who is knowledgeable on the matters before the board.

**20. APPEARANCE BY A MEMBER OF FAMILY**

A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

**21. BURDEN OF PROOF**

- A. Unless otherwise provided by law, the assessor is presumed to have properly performed his or her duty and assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant present independent evidence relevant to the full value of the property or other issue asserted in the application.
- B. In any hearing involving the assessment of an owner-occupied single-family dwelling, there is a rebuttable presumption affecting the burden of proof in favor of the taxpayer or the assessee who has supplied all information to the assessor as required by law and imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.
- C. In the appeal of an escape assessment, the assessor has the burden of proof, except where a taxpayer has failed to file a change in ownership statement or business property statement, has failed to obtain a permit for new construction or has not supplied the assessor with all other information required by law.
- D. In the case of a change in ownership it shall be rebuttably presumed that the purchase price is the full value of the property. The party challenging the presumption assumes the burden of proof.
- E. The assessor bears the burden of proof where the issue is the imposition of a penalty assessment.

**22. SUBPOENAS**

- A. At the request of a party in advance of the hearing or at the time of the hearing, the board or the clerk may issue subpoenas for the attendance of witnesses at the hearing. The board may issue a subpoena on its own motion.
- B. All subpoenas must be issued by the board or the clerk. A request for subpoena shall be made on forms provided by the clerk free of charge. In addition, a request for a subpoena for production of books, records, maps, and documents shall be supported by an affidavit as prescribed in section 1985 of the Code of Civil Procedure.
- C. The party obtaining a subpoena from the board shall be responsible for serving it and for payment of witness fees and mileage.
- D. If an applicant obtains a subpoena for the attendance of an employee of the State Board of Equalization pursuant to section 1609.5 of the Revenue and Taxation Code, and the board grants a reduction in assessment, the board may reimburse the applicant in whole or in part for the actual witness fees paid pursuant to that section.
- E. A party requesting a subpoena shall make the written request sufficiently in advance of the scheduled hearing date so that the party subpoenaed has an adequate opportunity to fully comply with the subpoena prior to the hearing. A subpoena issued near in time to or after the hearing has commenced should be as limited as possible. The board may grant a reasonable continuance of the hearing upon request.
- F. The board shall not issue subpoenas for purposes of prehearing discovery. No subpoenas shall be issued to take a deposition nor shall depositions be considered for any purpose by the board.

## **23. POSTPONEMENTS AND CONTINUANCES**

### **A. POSTPONEMENTS –**

- (1) Prior to the commencement of a scheduled hearing, any party may request a postponement of the hearing. Once a hearing has commenced, a party must make a request for continuance pursuant to subdivision B of this rule.
- (2) All decisions regarding requests for postponement of a hearing are made by the clerk. The clerk shall consider all requests for postponement as far in advance of the hearing date as is reasonably practicable.
- (3) Each party is entitled to one (1) postponement as a matter of right as provided below:

- (a) The request shall be in writing and served on the clerk and all parties to the proceeding at least twenty-one (21) days before the hearing is scheduled to commence.
  - (b) If an applicant or applicant's authorized representative requests a postponement within one hundred and twenty (120) days of the expiration of the two-year period set forth in section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the applicant's or applicant's authorized representative's written agreement to extend and toll said two-year period indefinitely subject to termination on one hundred and twenty (120) days written notice by the applicant or applicant's authorized representative.
  - (c) If the assessor requests a postponement within one hundred and twenty (120) days of the expiration of the two-year period set forth in section 1604 of the Revenue and Taxation Code, the assessor is not entitled to a postponement as a matter of right. However, the board may in its discretion grant the assessor's request.
- (4) Any subsequent request for postponement of a scheduled hearing, or any initial request for postponement made less than twenty-one (21) days before the hearing is scheduled to commence, shall be made in writing. Such request shall be submitted to the clerk and served on all parties to the proceeding as soon as reasonably practicable before the hearing date.
- (a) A subsequent request or late initial request must contain facts demonstrating good cause for postponement.
  - (b) Stipulation between the applicant or applicant's authorized representative and the assessor shall be deemed to constitute good cause but such stipulation shall provide for an extension of the two-year period as set forth in subdivision A(3).

**B. CONTINUANCES –**

- (1) After the hearing has commenced, the board may continue the hearing to a later date at the request of any party, or on its own motion.
- (2) If the applicant or applicant's authorized representative requests a continuance within ninety (90) days of the two-year period specified in section 1604 of the Revenue and Taxation Code, the board may require the applicant or applicant's authorized representative to sign a written extension to extend and toll said two-year period indefinitely subject to termination of the extension upon one hundred and twenty (120) days' written notice by the applicant or applicant's authorized representative.



- (3) If the assessor requests a continuance within ninety (90) days of the two-year period specified in section 1604 of the Revenue and Taxation Code, the board may deny the assessor's request.
- (4) The clerk shall provide written notice to the applicant and/or applicant's authorized representative and the assessor of the time, date and place of the continued hearing at least ten (10) days before the continued hearing date, unless the parties agree in writing or on the record to waive written notice.

## **24. DECISION**

- A. Acting upon the evidence properly before it, the board shall determine the full value of the property, including land, improvements, and personal property, that is the subject of the hearing. Whenever it is appropriate, the board shall also determine the classification, amount, and description of the property that is the subject of the hearing, the existence of a change in ownership or new construction, or any other issue that is properly before the board. The determination of the full value shall be supported by a preponderance of the evidence presented during the hearing. No greater relief may be granted than is justified by the evidence produced.
- B. The board's authority to determine the full value of property, while limited by the laws of this state and the laws of the United States and usually exercised in response to an application for equalization, is not predicated on the filing of an application nor limited by the applicant's request for relief.

When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the board may nevertheless determine the full value of other portions that have undergone a change in ownership, new construction or a decrease in value. Additionally, the board shall, under the proper circumstances, determine the market value of the entire appraisal unit whenever that is necessary to the determination of the market value of any portion thereof.

- C. The board, the applicant, and any appraisal witness shall be bound by the same principles of valuation that are legally applicable to the assessor.
- D. When valuing a property by a comparison with sales of other properties, the board may consider those sales that, in its judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use, or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the board shall not consider a sale if it occurred more than ninety (90) days after the date for which value is being estimated. The exclusion of sales occurring more than ninety (90) days after the valuation date does not apply to the sale of the subject property. The board shall presume that zoning or other legal restrictions, of the types described in Revenue

and Taxation Code section 402.1, on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

- E. Written findings of fact shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property.
- F. The board shall neither raise nor lower the entire local roll.

## **25. NOTICE OF DECISION**

- A. The board may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission and upon reaching a decision, provide written notice of the board's decision to the parties.
  - (1) Where no findings of fact are requested by any party and the matter is taken under submission, the clerk shall notify the applicant in writing of the board's decision no later than one hundred and twenty (120) days after the conclusion of the hearing.
  - (2) Where findings of fact have been requested and the matter is taken under submission:
    - (a) The clerk shall provide the findings of facts to the parties within one hundred and twenty (120) days after the conclusion of the hearing.
    - (b) Notwithstanding the above, if at the conclusion of the hearing an applicant or applicant's authorized representative requests that the board's decision become final on the date of issuance of the findings of fact for the purposes of further appeal, the findings of fact shall be issued no later than one hundred and eighty (180) days after the conclusion of the hearing. If the conclusion of the hearing is within one hundred and eighty (180) days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the applicant and/or applicant's authorized representative shall agree in writing to extension of a period of one hundred and eighty (180) days from the date of conclusion of the hearing.
- B. Proposed findings of fact: The board may request any party to submit proposed written findings of fact. The board shall provide the other party an opportunity to review and comment on proposed findings submitted to the board. If both parties

prepare proposed findings of fact, the board need not provide any opportunity to review and comment on the proposed findings of fact.

- C. Clarification of findings of fact: Any party or the clerk may submit a written request for clarification about the details of a decision contained in written findings of fact. Such clarification shall not be made if it would alter the final determination by the board.

## **26. RECONSIDERATION AND REHEARING**

- A. The decision of the board upon an application is final. The board shall not rehear or reconsider an application, except as hereinafter provided.
- (1) The board may modify its decision to correct a ministerial clerical error or omission.
- (2) The board may reopen and take evidence upon an application denied solely because of the nonappearance of the applicant as follows:
- (a) The applicant or applicant's authorized representative must file a written request for reinstatement within sixty (60) days from the date of mailing of the notice of denial of the application for lack of appearance. The request must contain facts demonstrating good cause for the failure to appear at the hearing as scheduled.
- (b) Upon receipt of a written request for reinstatement, the clerk shall schedule a hearing before the board and notify the applicant or applicant's authorized representative and the assessor of the time, date and place of the hearing. The notice of hearing shall advise the applicant or applicant's authorized representative that the hearing shall be limited solely to the request for reinstatement of the application. The notice shall also state that the applicant or applicant's authorized representative need not appear at the hearing on the request for reinstatement, and that the board may base its decision on the written request for reinstatement.
- D. Applicants who fail to request reconsideration within the period set, applicants whose requests for reconsideration due to non appearance are denied, or applicants whose applications were denied as invalid, may be eligible to file another appeal of the base year value during the next regular filing period where permitted under Revenue and Taxation Code section 80.
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The rules were adopted by the Board of Supervisors on \_\_\_\_\_, 2003, and are effective immediately and shall remain in effect until amended or repealed by the Board of Supervisors or until there are changes in applicable law.